

Notice of Allowability

Application No.

10/789,615

Examiner

David C. Reese

Applicant(s)

FINLEY, HENRY EARL

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1 February 2006.
2. ☒ The allowed claim(s) is/are 11.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

This office action is in response to Applicant's amendment filed 2/1/2006.

Status of Claims

- [1] Claim 11 is allowable in view of the examiner's amendment below.

Claim Objections

- [2] Applicant has addressed all objections to the Claims in the amendment filed 2/1/2006. Accordingly, all objections to the claims have been withdrawn by the Examiner.

Response to Arguments

- [3] Applicant amendment filed 2/1/2006 regarding rejections under 35 U.S.C. 102 have been fully considered. Due to the amendment to the claims, the prior art fails to further anticipate. Accordingly, the Examiner has withdrawn all previous rejections over Alviti and Matsushita.
- [4] Applicant amendment filed 2/1/2006 regarding rejections under 35 U.S.C. 103 have been fully considered. Due to the amendment to the claims, the prior art fails to further anticipate. Accordingly, the Examiner has withdrawn all previous rejections over Alviti in view of Zubalik.

Examiner's Amendment

- [5] An examiner's amendment to the record appears below. Authorization for this examiner's amendment was given in a telephonic conversation with on Jeffrey Proehl on 2/7/2006.

The examiner has amended the application as follows:

In Claim 11

Line 5, change, "the ear of the user" to --an ear of a user--;

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Line 6, change, "the ear of the user to provide the user" to -an ear of a user to provide a user--;

Line 10, change, "the ear of the user" to -an ear of a user--;

Line 11, change, "the ear when said frame member is engaged with the ear," to -an ear when said frame member is engaged with an ear--;

Line 18, change, "said pocket" to -said sleeve--;

Line 22, change, "the ear" to -an ear --;

Line 23, change, "the ear" to -an ear --;

Lines 26-27, change "the other one of said magnetic members is coupled to the other one of said alignment members," to -a second of said magnetic members is coupled to another one of said alignment members,--;

Line 28, change, "the other one" to -the second--;

Line 29, change, "the ear" to -an ear --;

Line 31, change, "the ear of the user" to -an ear of a user--;

Line 45, change, "the ear of the user" to -an ear of a user--;

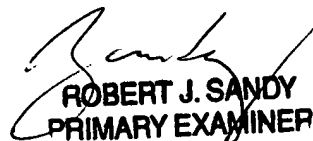
Line 46, change, "the ear of the user" to -an ear of a user--;

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Reasons for Allowance

[6] The following is an examiner's statement of reasons for allowance: the prior art, either alone or in combination with corresponding limitations as stated above, fails to teach or disclose the exact combination of features as stated in the instant claim. More specifically, the prior art, including Kohler, does not show of the exact structural relationship as claimed between the sleeve member and the continuous loop formed by both the alignment and engaging members; as well as the coupled relationship between the pair of magnets and said alignment members.

Any comments considered necessary by Applicant must be submitted no later than the payment of the issue fee, and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


ROBERT J. SANDY
PRIMARY EXAMINER

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Conclusion

[7] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David C. Reese whose telephone number is (571) 272-7082. The examiner can normally be reached on 7:30 am-6:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached at (571) 272-7075. The fax number for the organization where this application or proceeding is assigned is the following: (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

David Reese
Assistant Examiner
Art Unit 3677

DCR



2/7/06